

## Islamic Shari‘ah and the Status of Women in South Asia

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### Abstract

*The war of ideas between Islamic and western world has two main contents: Islamization and secularization. Muslims relate the social problems in the Islamic courtiers to the secularization of the cultural norms. On the other hand the western thinkers demonstrate Islamization as the basic problem of the contemporary world. Islamic Shari‘ah is not truly intercepted in the lives of contemporary Muslims, which eventually created misunderstanding about it. Islam, which claims for being the second largest religion in the world today after Christianity also has a specific approach towards women in terms of defining their rights, duties and obligations from different aspects. Consequently the social status of women also got a tremendous change and betterment under the instructions made by Prophet Muhammad (PBUH). Their rights were made defined and they were given legal status as equal as to men’s rights.*

**Keywords:** Islamic Shari‘ah, Islam and women, Secularization, Gender-based discrimination, South Asia, Globalization

### Introduction :

Globalization and communication revolution has increased the flow of ideas in the Muslim world<sup>1</sup> that amplified the debate over social and political issues within the Islamic circles. The war of ideas between Islamic and western world has two main contents: Islamization and secularization. Muslims relate the social problems in the Islamic courtiers to the secularization of the cultural norms. On the other hand the western thinkers demonstrate Islamization as the basic problem of the contemporary world. The gendered based discrimination is evident all over the world, especially in the underdeveloped countries. Religious and cultural norms are used to explain the supremacy of men over women. Islam is also criticized for gender-based discrimination. Though there is a difference between Islamic discourse and Islam practiced in the contemporary world. Islamic Shari‘ah is not truly intercepted in the lives of contemporary Muslims, which eventually has created misunderstanding about it.

Throughout the historical discourse of human race women remained the most important character in different domains of life. From the very beginning of this world<sup>2</sup> women are being seen playing her role shoulder to shoulder with men. Women are not a minority; in fact, they comprise almost 50 percent of the world population. Hence their role is vital and can be seen in all major fields of the society. From a religious point of view, almost all major traditions of the world consists upon some important female key figures playing vital role either in establishing the tradition or in the process of its development. In both cases, the role of women is important in terms of defining the status of women in a particular tradition. Islam, which claims for being the second largest religion in the world today after Christianity<sup>3</sup> also has a specific approach towards women in terms of defining their rights, duties and obligations from different aspects. The basic sources of Islamic law (Shari‘ah), the Qur‘an and Ḥadith (Prophetic

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sayings and Deeds) are very clear in defining the role of women in various spheres of the society.

### **Arab women before Islam and impact of Islam:**

In the 21<sup>st</sup> century, every society is experiencing major transformation as a result of globalization.<sup>4</sup> No doubt that in the later times when Islamic tradition was in its development phase, many notions have been adopted on cultural, social and political basis regarding the role of women which can also be seen nowadays in different Muslim societies throughout the Muslim world. Among these cultural norms some of them are very much discriminative and clearly against the basic teachings of Islam but they are being seen as “Islamic practice” while as a matter of fact, they are not “Islamic” at all, rather the origins of such discriminative norms could be traced back in the pre-Islamic Arabia. As a historical fact, the status of women was very poor in pre-Islamic Arabia. There were many tribes where they had no freedom of choice and were treated usually as oppressed class of the society. They were directly the victims of different tribal customs i.e. unlimited polygamy and the practice of female infanticide.<sup>5</sup> Their social status was terrible to the extent that they were supposed to be the property of men and they had no right of ownership of the property and everything went to the sons not to the wife, if the man died.<sup>6</sup> Likewise the worse form of women’s treatment in Arab society before Islam can be seen in one of their evil customs of burying alive their daughters.<sup>7</sup>

The Prophet Muhammad’s (PBUH) revolutionary scheme (Islam) made the obvious changes in Arab society of that time. His social order was encircled to all domains of life, including family structure, as Professor Watt says: “He produced a family structure that in many respects has proved attractive and satisfactory for societies emerging from the communal stage and passing into an individualistic one. Both by European Christian standards and by those of Islam, many of the old practices were immoral, and Muhammad’s reorganization was therefore a moral advance.”<sup>8</sup>

Thus, the Arab society became an Islamic society based on Islamic social order, which was the direct product of Qur’ān and Sunnah (Prophetic Tradition). Consequently the social status of women also got a tremendous change and betterment under the instructions made by Prophet Muhammad (PBUH). Their rights were made defined and they were given legal status as equal to men. Professor Watt admits this dramatic social change in family structure and opines: “In the sphere of marriage and family relations Muhammad effected a profound and far-reaching reorganization of the structure of society”.<sup>9</sup> Contrary to this, the historical discourse of South Asia shows that extensive restrictions have been placed on the women’s actions.<sup>10</sup> According to South Asian Muslim norms, women are supposed to stay at home, serve their men, raise their children and do not involve themselves in the outside world.

### **Women's rights in Islam:**

There are many Qur’ānic verses which reflect that both man and woman are of the same kind, e.g., “So their Lord accepted their prayers, (saying): I will not suffer to be lost the work of any of you whether **male or female**”.<sup>11</sup>

Similarly “Whoever works righteousness, **man or woman**, and has faith, verily to him will We give a new life that is good and pure, and We will bestow on such their reward according to the their actions”.<sup>12</sup>

Likewise the Prophet Muhammad made no distinction between man and woman regarding seeking of knowledge, as the Prophet Muhammad once said: "Seeking knowledge is mandatory for every Muslim"(male and female).<sup>13</sup> This saying of the Prophet has been totally downplayed in the South Asia, even at the time of the British rule, as in 1947 only 1% of the Indian subcontinent's women had received secondary education.<sup>14</sup> In contemporary Muslim societies, especially in Pakistan and India, females are not supported by their parents for getting education which is totally against the actual Islamic stance in this regard. Due to the local customs of society, Muslims are reluctant in sending their daughters and sisters for acquiring knowledge.

Muslim girls in South Asia are mostly married without their consent being by their parents. Muslims, especially South Asians, usually do not study Qur'ān and Ḥadīth and rely on the traditional Islam (a combination of Islam and local traditions which are mostly affected by Hinduism). At the age of Prophet' Women were given the freedom of choice which was a quite new idea for the pagan Arabs. According to Islamic Law, women cannot be forced to marry anyone without their consent. It is reported that a girl came to the Prophet Muhammad, and she reported that her father had forced her to marry without her consent. The Messenger of God gave her the choice... (Between accepting the marriage and invalidating it).<sup>15</sup> In another version, the girl said: "Actually, I accept this marriage, but I wanted to let women know that parents have no right (to force a husband on them)"<sup>16, 17</sup>

Muslim societies, especially in India and Pakistan are usually men dominated societies, which often uses religious norms to protect their status and superiority over women. One of the main misunderstandings/misuse of the Islamic tradition of "Ḥijāb" (veil) in the modern Muslim society of Indo-Pak is that they have divided their everyday life and culture on a gender basis. Even though the women of elite class or those who got access to education and employment in Pakistan (and India) are enjoying much more liberty and freedom' yet they are, in general, subject to be under certain criteria of Ḥijāb. Ḥijāb or veil, from an Islamic point of view, is basically to protect women from any ethical or sexual harassment because of their specific physical structure, but it is taken as a mean of separation of society between men and women by the dominant males of the society. In this regard, quality education, employment and media have made tremendous contribution in improving the environment up to a great extent, on one hand, but also has created many conflicts within the families on the other, as men seek to maintain their status, authority and social control.<sup>18</sup>

Some political impact can also be seen in Pakistani society in particular, about their restricted views about women's status in the society. As Anita concluded that the advent of the Martial law rule of General Zia (1977-1988) and his program of Islamization attempted institutional transformation within an Islamic framework which constructed an image of women as not having identical civil liberties as men and which justified such laws in the name of Islam".<sup>19</sup>

And certainly after having known about the actual Islamic stance over women's right of choice, nobody can put blame on Islam that it supports forced marriages. While, in fact, this is the regional customs and culture that makes such discriminating rules for women among Muslim in Pakistan and India in particular. Women are usually not given the right of choosing their life partner by themselves in these male dominated societies which is entirely based on that specific culture and it has nothing to do with Islamic

teachings.

Qur'an provides base for the Islamic law under which women can exercise their right of ownership in money, real estate and other properties.<sup>20</sup> As they retain their full rights of selling, buying, mortgage or leasing any of their properties. But, on the contrary, this right of ownership for women is lacking among most of the Muslims in India and Pakistan.

It is noteworthy that there is no verdict in Islam that hinders woman from seeking a suitable employment. Moreover, there is no restriction on benefiting from woman's exceptional talent in any field. But it is frowned by Muslim community of Pakistan, especially those living in rural areas due to their own social and cultural environment' and not because of any religious restrictions.

In brief, there are numerous Qur'anic verses and Prophetic traditions which clearly define various basic women's rights and their status in almost all realms of life. There are many evidences from the early period of Islam, which shows free participation of women in different fields and where they exercised their freedom i.e. they participated in wars and acted like medical personnel. There were many who were engaged in making good poetry and played a vital role in spreading (religious) education.<sup>21</sup>

The two basic sources of knowledge in Islam (Qur'an and Ḥadith) have clearly defined the women rights and during the early years of Islam these had been actually applied in the Islamic society. The first wife of the Prophet Muhammad (PBUH), Khadijah, was an independent businesswoman. Similarly, the youngest wife of Prophet 'Āyishah is considered amongst the prolific Islamic scholars. A large number of aḥādith, present in the six books, are quoted by her. After the death of the Prophet, his companions while facing any academic problem would use to visit her for appropriate solution. With the passage of time the caliphate converted to autocratic regime and people forgot the original teachings of Islam. Sometimes the clerics misinterpreted Islam to get political and economic benefits. In the united India during Mughal period King Akbar entered Hindu traditions to Islam and created a new religion which destroyed the essence of Islam. The people who still get knowledge directly from Qur'an and Ḥadith along with the secular studies have positive thinking about women's rights. The door of ijtihād<sup>22</sup> is still open to solve the contemporary problems of the Muslims. It is the responsibility of Islamic scholars to interpret the Islamic teachings according to the requirements of the 21<sup>st</sup> century.

## Endnotes

<sup>1</sup> Esposito 2008: 04

<sup>2</sup> According to Biblical and Qur'anic interpretations i.e., the character of Eve.

<sup>3</sup> Muhammad 2005: 54

<sup>4</sup> Esposito 2008: 261

<sup>5</sup> Turner 2003: 77

<sup>6</sup> Ali 1992: 21-22

<sup>7</sup> Ali 1992: 21-22

<sup>8</sup> Watt 1981: 289

<sup>9</sup> Watt 1981: 289

<sup>10</sup> Haddad 1998:125

<sup>11</sup> Qur'ān, 3:195

- <sup>12</sup> Qur'ān, 16:97  
<sup>13</sup> Ibn Majah, Vol. 01 p. 81  
<sup>14</sup> Haddad 1998: 132  
<sup>15</sup> Musnad Ahmad, Vol. 06 p. 136  
<sup>16</sup> جاءت فتاة إلى النبي ﷺ فقالت إن أبي زوجني ابن أخيه ليرفع بي خسيسته قال فجعل الأمر إليها فقالت قد أجزت ما صنع أبي ولكن أردت أن تعلم النساء أن ليس إلى الآباء من الأمر شيء.  
<sup>17</sup> Musnad Ahmad, v6 p136  
<sup>18</sup> Haddad: 1998: 126  
<sup>19</sup> Haddad: 1998: 133  
<sup>20</sup> Qur'ān 4: 32  
<sup>21</sup> Manesi 1996: 102  
<sup>22</sup> *Ijtihad* is a technical term of Islamic law that describes the process of making a legal decision by independent interpretation of the legal sources, the Qur'ān and the Sunnah.

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